

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

In Re:	§	
Highland Capital Management, L.P. and CLO Holdco,	§	
Ltd.	§	
	§	Case No.: 19-34054-sgj11
Debtor(s)	§	Chapter No.: 11
Official Committee of Unsecured Creditors	§	
Plaintiff(s)	§	Adversary No.: 20-03195-sgj
vs.	§	
CLO Holdco, Ltd. et al.	§	Civil Case No.:
Defendant(s)	§	
	§	
Official Committee of Unsecured Creditors	§	
Plaintiff(s)	§	
vs.	§	
CLO Holdco, Ltd., et al.	§	
Defendant(s)	§	

**NOTICE OF TRANSMITTAL REGARDING WITHDRAWAL OF REFERENCE**

I am transmitting:

- ☒ One copy of the Motion to Withdraw Reference (USDC Civil Action No. – DNC Case) **NOTE:** A Status Conference has been set for 6/3/2021 at 9:30a.m., in via <https://us-courts.webex.com/meet/jerniga> before U.S. Bankruptcy Judge Stacy G. C. Jernigan. The movant/plaintiff, respondent/defendant or other affected parties are required to attend the Status Conference.
- ☐ One copy of: \_.

**TO ALL ATTORNEYS:** Fed.R.Bankr.P. 5011(a) A motion for withdrawal of a case or proceeding shall be heard by a district judge, [*implied*] that any responses or related papers be filed likewise.

DATED: 5/17/21

FOR THE COURT:  
Robert P. Colwell, Clerk of Court

by: /s/Sheniqua Whitaker, Deputy Clerk

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**WITHDRAWAL OF REFERENCE SERVICE LIST**

**Transmission of the Record**

BK Case No.: 19-34054-sgj11

Adversary No.: 20-03195-sgj

Received in District Court by: \_\_\_\_\_

Date: \_\_\_\_\_

Volume Number(s): \_\_\_\_\_

cc: Stacey G. Jernigan  
Robert (Bob) Schaaf  
Nathan (Nate) Elner  
Attorney(s) for Appellant  
US Trustee

**Plaintiff** Official Committee of Unsecured Creditors

Paige Holden Montgomery  
Sidley Austin LLP  
2021 McKinney Avenue, Suite 2000  
Dallas, TX 75201  
(214) 981-3300

**Defendant** CLO Holdco, Ltd. and Highland Dallas Foundation, Inc.

Louis M. Phillips  
KELLY HART & PITRE  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801  
(225) 381-9643

**Defendant** Charitable DAF Holdco, Ltd. (Pro Se)

No contact information

**Defendant** Charitable DAF Fund, LP (Pro Se)

No contact information

**Defendant** The Dugaboy Investment Trust and The Get Good Nonexempt Trust

Douglas S. Draper  
Heller, Draper & Horn, L.L.C.  
650 Poydras St., Suite 2500  
New Orleans, LA 70130  
(504) 299-3300

**Defendant** Grant James Scott III

John J. Kane  
Kane Russell Coleman Logan PC  
901 Main Street  
Suite 5200  
Dallas, TX 75202  
(214) 777-4261

**Defendant** James D. Dondero

Bryan C. Assink  
Bonds Ellis Eppich Schafer Jones LLP  
420 Throckmorton St., Suite 1000  
Fort Worth, TX 76102  
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Fort Worth, TX 76102  
(817) 405-6900

BTXN 150 (rev. 11/10)

In Re:

Highland Capital Management, L.P. and CLO Holdco, Ltd.

Official Committee of Unsecured Creditors

vs.

CLO Holdco, Ltd. et al.

Debtor(s)

Plaintiff(s)

Defendant(s)

Case No.: 19-34054-sgj11

Chapter No.: 11

Adversary No.: 20-03195-sgj

## CIVIL CASE COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

### I. (a) PLAINTIFF

Official Committee of Unsecured Creditors

(b) County of Residence of First Listed Party:  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Paige Holden Montgomery  
Sidley Austin LLP  
2021 McKinney Avenue, Suite 2000  
Dallas, TX 75201  
(214) 981-3300

### DEFENDANT

CLO Holdco, Ltd., et al.

County of Residence of First Listed Party:  
(IN U.S. PLAINTIFF CASES ONLY)

Attorney's (If Known)  
CLO Holdco, Ltd and Highland Dallas Foundation, Inc:

Louis M. Phillips  
KELLY HART & PITRE  
301 Main Street, Suite 1600  
Baton Rouge, LA 70801  
(225) 381-9643

Charitable DAF Holdco, Ltd (Pro Se):

Charitable DAF Holdco, Ltd (Pro Se):

Charitable DAF Fund, LP (Pro Se):

The Dugaboy Investment Trust and The Get Good Nonexempt Trust:

Douglas S. Draper  
Heller, Draper & Horn, L.L.C.  
650 Poydras St., Suite 2500  
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901 Main Street  
Suite 5200  
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(214) 777-4261

James D. Dondero:

Bryan C. Assink  
Bonds Ellis Eppich Schafer Jones LLP  
420 Throckmorton St., Suite 1000  
Fort Worth, TX 76102  
(817) 405-6900

### II. BASIS OF JURISDICTION

☐ 1

U.S. Government  
Plaintiff

☐ 2

U.S. Government  
Defendant

☒ 3

Federal Question  
(U.S. Government  
Not a Party)

☐ 4

Diversity  
(Indicate Citizenship  
of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES

Citizen of This State

☐ 1

☐ 1

Incorporated *or* Principal Place  
of Business In This State

☐ 4

☐ 4

Citizen of Another State

☐ 2

☐ 2

Incorporated *and* Principal Place  
of Business In Another State

☐ 5

☐ 5

Citizen or Subject of a  
Foreign Country

☐ 3

☐ 3

Foreign Nation

☐ 6

☐ 6

### IV. NATURE OF SUIT

☐ 422

Appeal 28 USC 158

☒ 423

Withdrawal 28 USC 157

☐ 890

Other Statutory Actions

**V. ORIGIN**

- ☒ 1 Original Proceeding      ☐ 2 Removed from State Court      ☐ 3 Remanded from Appellate Court      ☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district      ☐ 6 Multidistrict Litigation      ☐ 7 Appeal to District Judge from Magistrate Judgment
- 

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):  
423 Withdrawal 28 USC 157

Brief description of cause:  
Motion to withdraw the reference

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**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23      DEMAND \$      CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☐ No

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**VIII. RELATED CASE(S) IF ANY**  
Judge:

Docket Number: 3:21-cv-01112-C      3:21-cv-01173-X

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DATED: 5/17/21

FOR THE COURT:  
Robert P. Colwell, Clerk of Court  
by: /s/Sheniqua Whitaker, Deputy Clerk

John Y. Bonds, III  
TX 02589100 (*Admitted Bankr. N.D. Tex.*)  
Roland P. Schafer  
TX 24056271 (*Admitted Bankr. N.D. Tex.*)  
Bryan C. Assink  
TX 24089009 (*Admitted Bankr. N.D. Tex.*)  
William R. Howell, Jr.  
NY 5091269 (*Admitted Bankr. N.D. Tex.*)  
BONDS ELLIS EPPICH SCHAFFER JONES LLP  
420 Throckmorton Street, Suite 1000  
Fort Worth, Texas 76102  
(817) 405-6900 telephone  
(817) 405-6902 facsimile

ATTORNEYS FOR DEFENDANT JAMES DONDERO

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>In re:</b>	§	
	§	<b>Case No. 19-34054-sgj11</b>
<b>HIGHLAND CAPITAL</b>	§	
<b>MANAGEMENT, L.P.,</b>	§	<b>Chapter 11</b>
	§	
<b>Debtor.</b>	§	

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<b>OFFICIAL COMMITTEE OF</b>	§	
<b>UNSECURED CREDITORS,</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	<b>Adversary No. 20-03195</b>
<b>vs.</b>	§	
	§	
<b>CLO HOLDCO, LTD., CHARITABLE</b>	§	
<b>DAF HOLDCO, LTD., CHARITABLE</b>	§	
<b>DAF FUND, LP, HIGHLAND DALLAS</b>	§	
<b>FOUNDATION, INC., THE DUGABOY</b>	§	
<b>INVESTMENT TRUST, GRANT JAMES</b>	§	
<b>SCOTT III IN HIS INDIVIDUAL</b>	§	
<b>CAPACITY, AS TRUSTEE OF THE</b>	§	
<b>DUGABOY INVESTMENT TRUST,</b>	§	
<b>AND AS TRUSTEE OF THE GET</b>	§	
<b>GOOD NONEXEMPT TRUST, AND</b>	§	
<b>JAMES D. DONDERO,</b>	§	
	§	
<b>Defendants.</b>	§	

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**RELIEF REQUESTED FROM DISTRICT COURT**

**JURY TRIAL DEMANDED**

**DEFENDANT JAMES DONDERO’S MOTION TO WITHDRAW THE REFERENCE  
AND JOINDER IN SUPPORT OF MOTIONS BY OTHER DEFENDANTS TO  
WITHDRAW THE REFERENCE**

Defendant James Dondero (“Dondero”) files this *Motion to Withdraw the Reference* (the “Motion”) and joins Defendants CLO Holdco, Ltd., Highland Dallas Foundation, Inc., The Dugaboy Investment Trust, and The Get Good Nonexempt Trust in their motions to do the same. *See* Docket Nos. 24 & 33 (the “Other Motions”). This Motion incorporates by reference the Other Motions and their attached briefs in support, which address the District Court’s jurisdiction, the statutes and rules governing this Motion, and the history of this matter. Dondero respectfully presents the following:

The Bankruptcy Court does not have constitutional authority to enter a final judgment here because the Plaintiff seeks money damages. *Stern v. Marshall*, 564 U.S. 462, 484 (2011).<sup>1</sup> When a party is seeking a claim for money damages, the claim is “unquestionably legal,” *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 476 (1962), such that “the constitutional right to trial by jury cannot be made to depend upon the choice of words used in the pleadings.” *Id.* at 477-78. Dondero has a 7<sup>th</sup> Amendment right to a jury trial and does not consent to the Bankruptcy Court conducting a jury trial in this adversary proceeding. Dondero does not consent to the Bankruptcy

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<sup>1</sup> “Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking if the other branches of the Federal Government could confer the Government’s ‘judicial Power’ on entities outside Article III. That is why we have long recognized that, in general, Congress may not ‘withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.’ When a suit is made of ‘the stuff of the traditional actions at common law tried by the courts at Westminster in 1789,’ and is brought within the bounds of federal jurisdiction, **the responsibility for deciding that suit rests with Article III judges in Article III courts.** The Constitution assigns that job--resolution of ‘the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law’ --to the Judiciary.” (bold emphasis added) (internal citations omitted).

Court entering final orders or judgments in this adversary proceeding. He has not waived his right to a jury trial or to Article III adjudication, and for the reasons set forth in this Motion and the Other Motions, Dondero asks that the reference of this adversary proceeding to the Bankruptcy Court be withdrawn.

Dated: May 10, 2021

Respectfully submitted,

/s/ William R. Howell, Jr.

John Y. Bonds, III

TX 02589100 (*Admitted Bankr. N.D. Tex.*)

Roland P. Schafer

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**ATTORNEYS FOR DEFENDANT JAMES DONDERO**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on May 10, 2021, this document was filed electronically via the Court's CM/ECF system which automatically provides notice to registered parties.

/s/ William R. Howell, Jr.

William R. Howell, Jr.